IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

No. 74-920

DAN D. WEINER,
Petitioner,

v.

DAYTON BAR ASSOCIATION,
Respondent.

REPLY BRIEF FOR PETITIONER

I

The respondent admits in their answer (Page 2) that they deliberately refused to answer the interrogatories filed by the petitioner because there were no Ohio procedural rules requiring them to do so. The respondent further admits (Page 3) that they didn't want to limit the scope of their prosecution in any way by narrowing or delineating the charges further.

This is a clear cut admission of their deliberate violation of the standards established by the United States Supreme Court in *In re Ruffalo*, 390 U.S. 544 (1968).

The respondent states that petitioner had the right to take depositions, however the provision cited does not permit depositions for the purpose of discovery. Furthermore even if it did permit discovery depositions, without a complete and detailed breakdown of the charges as requested, taking depositions would be an impossible and worthless task.

II

Respondent also admits in their answer that petitioner, although found guilty of a violation of Canon 9-102 (B) (3), was not charged with a violation of that Canon, again a clear cut violation of the *Ruffalo* doctrine.

III

Respondent further admits that Garrett never made a complaint nor testified pertaining to a violation of excessive fees. The hearing panel clearly determined the matter was not in issue. Respondent's attorney even said it wasn't in issue.

Likewise, Garrett never made a complaint nor testified pertaining to a violation of withdrawal from employment. Respondent overlooks the fact that Garrett discharged petitioner, stating that he desired to seek another attorney, that petitioner advised him to be present at his upcoming trial with his new counsel, that petitioner so informed the prosecutor the next work day and requested the prosecutor to tell the Judge and get back to him if there were any problems. *State v. Weiner*, 37 Ohio St. 2d 11 (1974).

IV

Mrs. Ison also never filed a complaint against petitioner. Mrs. Ison was at all times aware of her contractual arrangements and promises to petitioner. She was advised immediately in writing

by petitioner when the court dismissed the matter and hired attorney Clayman to file her decree. Mrs. Ison received the divorce and petitioner was denied the balance of his earned fee.

CONCLUSION

The respondent has openly admitted the violations which in fact clearly deprived petitioner of due process of law. Petitioner again prays that a writ of certiorari be issued in this case.

Respectfully submitted

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